IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9168 OF 2005

Smt.Kumudini Dattatraya Joshi Petitioner

versus

Tirumalesh Narassayya Vadicherla
and others Respondents

Mr.K.M.Malpathak for petitioner.

Ms.Anamika Malhotra for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd January 2006

PC :

1. Heard Shri Malpathak for the petitioner and Ms.Malhotra for the respondents. Perused the order passed by the Trial Court condoning the delay in filing the written statement and allowing the respondents' written statement to be taken on record subject to payment of costs of Rs.500/- After perusing the said order and the application as well as reply filed thereto, in my view, the Court below was justified in condoning the delay and no interference in the order of the Trial Court in that behalf is necessary under

Article 227 of the Constitution of India. The discretion is exercised in consonance with the materials produced. However, the Trial Court should have compensated the petitioner-plaintiff who is a lady of 73 years and directed payment of costs at Rs.2,000/- at least. Therefore, the only modification made to the order under challenge, in the larger interest of justice, is enhancing the costs to Rs.2,000/-. Costs to be tendered in the Trial Court within a period of two weeks from today. Upon the proof of costs being paid/ tendered is placed before the Trial Court, the written statement of the respondents 1 and 2 to be taken on record. After such written statement is taken on record, the suit to proceed in accordance with law. Hearing of the suit is expedited considering the fact that the petitioner is a senior citizen. Petition disposed of.

(S.C.DHARMADHIKARI, J.)